

No. of Copies rec'd  
List A B C D E

captioned proceeding.<sup>3</sup> In support of these Reply Comments and the proposed DTV channel substitution for Little Rock, KM submits the following:

2. KM filed comments in this proceeding<sup>4</sup> supporting the proposed change in the DTV allotment of KYPX-DT from Channel 43 to Channel 44, to ensure the proper interference protection was given to its then-pending application, and now recently-granted construction permit, for a new analog television station on Channel 43 at El Dorado, Arkansas. See KM Comments at ¶¶ 9-12. Specifically, KM delineated the Commission's rules and precedents from the DTV and other proceedings which established that applications for new analog television stations that were pending in April 1997 when the DTV table of allotments was adopted (or were timely-filed in response to a cut-off list for such an application) and did not require a waiver of the Commission's rules were and are entitled to protection from conflicting DTV allotments. Id. KM also noted that, regardless of that Commission policy, its then-pending application provided the necessary protection to KYPX's DTV Channel 43 allotment, id. at ¶ 13, and that grant of the DTV channel substitution would serve the public interest. Id. at ¶¶ 8-9.

3. KM continues to believe that the proposed substitution of Channel 44 for Channel 43 at Little Rock would constitute a preferential arrangement of allotments, and no other party has demonstrated otherwise. River City, the only other party to file comments,<sup>5</sup> generally supported the

---

<sup>3</sup> See Amendment of Section 73.622(b), Table of Allotments, Digital Television Broadcast Stations (Little Rock, Arkansas), MM Docket No. 00-139, RM-9915, Notice of Proposed Rule Making, DA 00-1798 (Video Services Division, released August 18, 2000)(the "NPRM").

<sup>4</sup> See Comments of KM Television of El Dorado, L.L.C. filed October 10, 2000 ("KM Comments").

<sup>5</sup> See Comments of River City Broadcasting, Inc. filed October 10, 2000 ("River City Comments").

proposed change in the KYPX DTV allotment, although its support was conditioned on the Commission finding an alternate channel for a commonly-owned secondary Low Power Television (“LPTV”) station that could be adversely affected by the proposed channel substitution. Although KM is not opposed to the Commission or River City finding an alternate channel for the affected secondary LPTV station, KM does not believe that this proceeding should be delayed by that effort. KM also notes that the Commission has historically taken the position that the potential effect on secondary LPTV stations will not be taken into consideration when full power television allotment changes are being considered,<sup>6</sup> although it has encouraged that LPTV interests be taken into account where possible.

4. River City also incorrectly states that the “certification of eligibility to apply for a Class A television station license has been accepted by the Commission” for its commonly-owned LPTV station KHTE-LP (Facility ID Number 57549),<sup>7</sup> when that LPTV station was not listed as having an accepted certification or eligibility for Class A status, but rather was on the Commission’s Public Notice of LPTV stations whose certifications of eligibility for Class A status were dismissed as not complying with the statutory programming requirements for Class A status.<sup>8</sup> If the Commission does elect to consider the potential effect of the proposed DTV allotment change on

---

<sup>6</sup> See, e.g., Advanced Television Systems and Their Impact Upon the Existing Television Service, MM Docket No. 87-268, Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order, FCC 98-24, 13 FCC Rcd 7418, 11 CR 634 at ¶ 106 (1998)(the “DTV First MO&O on Reconsideration”).

<sup>7</sup> See River City Comments at ¶ 4 and n.4 (citing Public Notice, DA 00-1224, released June 2, 2000).

<sup>8</sup> See Public Notice, DA 00-1227 at 3 (released June 9, 2000)(listing the Class A certification of eligibility for KHUG-LP, now KHTE-LP, Little Rock, Arkansas, Facility ID Number 57549, as dismissed).

KHTE-LP, it should bear in mind that it is a secondary LPTV station and not a primary Class A station.


5. Last, River City incorrectly states that KYPX did not file a DTV application, see River City Comments at n.3., when in fact KYPX did file a DTV application, for DTV Channel 44, on May 1, 2000, a copy of which was filed in the docket for this proceeding on May 5, 2000 (and may be retrieved using the Commission's Electronic Comment Filing System). KYPX's DTV Channel 44 application included as Exhibit 1 thereto a request for waiver of Section 73.3572 of the Commission's rules, to permit the filing of the application conditioned on the outcome of this proceeding. Since this DTV application and waiver request appear to still be pending at the Commission, KYPX would not need to file an application for DTV Channel 44, or need to commit to filing such an application in the future once the proposed allotment change is made.

6. In short, KM continues to believe that the proposed DTV allotment change would serve the public interest as a preferential arrangement of full power television allotments, and should not be delayed for a search for alternate channels for potentially affected LPTV stations.

7. WHEREFORE, in light of the showings set forth herein, KM respectfully requests that the Commission grant KYPX's Petition for Rule Making and the substitution of DTV Channel 44 for the current DTV Channel 43 allotment at Little Rock, Arkansas.

Respectfully submitted,

**KM Television of El Dorado, L.L.C.**

By:   
Jeffrey L. Timmons  
Its Attorney

Jeffrey L. Timmons, P.C.  
3235 Satellite Boulevard  
Building 400, Suite 300  
Atlanta, Georgia 30096-8688  
(770) 291-2170 telephone  
(770) 291-2171 facsimile  
jeff@timmonspc.com

October 24, 2000


## CERTIFICATE OF SERVICE

I, Jeffrey L. Timmons, hereby certify that on this 24<sup>th</sup> day of October, 2000, copies of the foregoing "Reply Comments of KM Television of El Dorado, L.L.C." have been served by hand delivery or United States mail, postage prepaid, upon the following:

Peter Tannenwald, Esq.  
Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Avenue, N.W., Suite 200  
Washington, D.C. 20036-3101  
*Counsel to River City Broadcasting, Inc.*

Scott S. Patrick, Esq.  
Dow, Lohnes & Albertson, PLLC  
1200 New Hampshire Avenue, N.W., Suite 800  
Washington, D.C. 20036-6802  
*Counsel to Channel 42 of Little Rock, Inc.*

Pam Blumenthal, Esq.\*  
Federal Communications Commission  
Mass Media Bureau, Video Services Division  
445 12<sup>th</sup> Street, S.W., Room 2-A762  
Washington, D.C. 20554

  
Jeffrey L. Timmons, Esq.

\* indicates hand delivery